

§ 14-4-1 DEFINITIONS.

In this chapter:

- (5) SIDEWALK CAFÉ means an outdoor dining area that:
- (a) is associated with a restaurant as defined in Section 25-2-4 (*Commercial Uses Described*);
 - (b) is located on a sidewalk adjacent to and within the span of the façade of the restaurant; and
 - (c) contains removable tables, chairs, planters or other appurtenances.

Source: 1992 Code Section 15-9-1(B); Ord. 031204-12; Ord. 031211-11; Ord. 20071129-040.

§ 14-4-2 EXCEPTION FOR CITY USES.

This chapter does not apply to the City's use of a public street.

Source: 1992 Code Section 15-9-7; Ord. 031204-12; Ord. 031211-11.

§ 14-4-3 SIDEWALK CAFÉ LICENSE AUTHORIZED.

(A) The city manager may issue a license agreement establishing and maintaining a sidewalk café on a part of a street, in compliance with Chapter 316 (*Use of Municipal Streets and Sidewalks for Public Conveniences and Amenities or for Private Uses*) of the Texas Transportation Code and this chapter.

(B) The director shall establish licensure criteria and requirements under this chapter, including:

- (1) those necessary to protect public use of a street or a public utility company;
- (2) required clearances between the sidewalk café and utility lines as prescribed by the Building Code;
- (3) a requirement that the licensee provide the City with a cash or surety bond sufficient to cover the cost to the City or a public utility to remove the sidewalk café, if necessary;
- (4) a requirement that the licensee pay the cost to relocate a City or public utility facility or improvement in a public street in connection with the installation of the sidewalk café;
- (5) authorization for the City or a public utility to remove, without liability, part of the sidewalk café if necessary to obtain access to a City or public utility facility or improvement; and
- (6) a requirement that the licensee post a sketch of the licensed premise in a public place near the licensee's food and beverage certificate issued by the Texas Alcoholic Beverage Commission.

(C) The director shall file a copy of the criteria and requirements adopted under this section with the city clerk.

Source: 1992 Code Section 15-9-1(A); Ord. 031204-12; Ord. 031211-11; Ord. 20071129-040.

§ 14-4-4 RESTRICTIONS ON FEATURES OF SIDEWALK CAFÉ.

(A) A sidewalk café operated under this chapter:

- (1) may have no more than ten free standing tables, each with a surface area of five feet or less;
- (2) may not be enclosed by fixed walls or other permanent structure; and
- (3) must be open to the air, except that a canopy conforming to requirements established by the department may be constructed over the sidewalk café.

(B) A sidewalk café operated with eleven or more free standing tables must comply with Section [14-11-1](#) (*Application Required*), Section [14-11-21](#) (*Additional Application Requirements for Release of Public Easement*), and Article 1, Division 3 (*License for Private Use of Public Property*) of [Chapter 14-11](#) (*Use of Right-of-Way*) instead of this chapter.

(C) A sidewalk café associated with a restaurant on Congress Avenue (North) on a block that includes a peninsula may use one peninsula, if:

- (1) the peninsula is located within the span of the restaurant facade, or the peninsula's leading edge is no more than 20 feet from the closest edge of the restaurant facade; and
- (2) the operation of the sidewalk café on a peninsula meets the standards in Subsection (B).

(D) Any portion of a sidewalk café in which alcoholic beverages are served must be secured by removable balustrades, planters, or other appurtenances.

Source: 1992 Code Sections 15-9-1, 15-9-2(A), (B), and (C)(7); Ord. 031204-12; Ord. 031211-11; Ord. 20071129-040.

§ 14-4-5 AUTHORIZED APPLICANT.

The owner of the fee title to real property under a public street or a lessor authorized in writing by the owner may apply for a license to establishment and operate a sidewalk café.

Source: 1992 Code Section 15-9-2(A); Ord. 031204-12; Ord. 031211-11.

§ 14-4-6 APPLICATION REQUIRED.

(A) An applicant must file an application with the director on a form approved by the director.

(B) An application under this chapter must include:

- (1) an application fee as established by separate ordinance;
- (2) proof of fee title ownership to the real property under the public street and, if applicable, lesser authorization;
- (3) a certified preamble and sketch completed by a surveyor;
- (4) information on the type of sidewalk café to be established, including:
 - (a) the number and placement of tables, chairs, and other furnishings; and
 - (b) the name and address of the adjacent restaurant that will serve the sidewalk café;
- (5) proof of general commercial liability insurance coverage in the amount established by the department to protect the City's interest; and
- (6) other information required by the department.

Source: 1992 Code Section 15-9-2(C)(1) through (6); Ord. 031204-12; Ord. 031211-11; Ord. 20071129-040.

§ 14-4-7 REVIEW, FINDINGS, AND DETERMINATION.

(A) The director shall deliver a copy of each application the director receives for comment to:

- (1) affected City departments;
- (2) the property owners and tenants whose property or businesses are immediately adjacent to the proposed licensed area; and
- (3) affected utility franchise holders.

(B) Not later than the 30th day after the director receives an application, the director shall make findings of fact as required by Chapter 316 (*Use of Municipal Streets and Sidewalks for Public Conveniences and Amenities or for Private Uses*) of the Texas Transportation Code and Subsection (C) based on a review of the application and any comments received under Subsection (A).

(C) The director shall notify an applicant that an application is approved if the director finds that the proposed sidewalk café:

- (1) is not located on, extend onto, or intrude on a portion of a roadway or a sidewalk necessary for pedestrian use;

(2) is planned to minimize potential harm or injury to the public or interference to public use of a public street;

(3) does not create a hazardous condition or obstruction of vehicular or pedestrian traffic on a public street; and

(4) meets the requirements of this chapter and the criteria and requirements established by the department.

(D) The findings made by the director under this chapter are exclusively for the use and benefit of the City to determine if the department's license criteria have been met. The applicant may not rely on the director's findings as a certification or guarantee by the City that the findings are correct, complete, or accurate.

(E) If the director fails to make a determination on an application on or before the 30th day after receipt of the application, the application is denied.

Source: 1992 Code Section 15-9-3(A) and (B); Ord. 031204-12; Ord. 031211-11.